

REMARKS/ARGUMENTS

The final office action of December 12, 2008 has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested. Claims 1-16 and 18-20 remain in this application. Claim 11 was amended to recite maximum amounts of certain elements consistent with claims 1 and 6. Accordingly, claim 17 was canceled. No new issues are raised by this amendment as claim 17 was already examined.

Claims 1-4, 6, 11-14 and 17 stand rejected under 35 USC 102(b) as anticipated by Ueda (JP 2000-303132) in view of admitted prior art. As the rejection is under 102(b) and does not rely on the admitted prior art in its text, it is believed that inclusion of “in view of admitted prior art” was an inadvertent error. This rejection is respectfully traversed.

Claim 1 requires Al, Y, and Mn as does Ueda. However, claim 1 further recites a list of elements with a maximum amount for each and importantly a recitation of a maximum for “other elements” where such “other elements” are present in less than 0.05% each and total 0.15%.

Ueda requires the following:

Ca: 0.1% to 5.0%

Li: 0.1-10.0%

Sr: 0.05-0.8%

Sc: 0.05-0.8%

These elements would fall within “other elements” of claim 1, and none of these elements are listed as less than 0.05% as required by claim 1. Moreover, even if only the minimums of each of these listed elements are utilized, there would be at least 0.3% of “other elements” – twice the maximum allowed in claim 1. Thus Ueda cannot anticipate claim 1. Ueda further cannot anticipate claim 6 and amended claim 11 for the same reasons. Withdrawal of this rejection is requested.

Claims 5, 8-10, and 15-16 stand rejected under 35 USC 103(a) as unpatentable over Ueda in view of admitted prior art.

Ueda does not teach or suggest independent claims 1, 6, and 11 for the reasons

discussed above. One skilled in the art would not have modified Ueda in view of the admitted prior art to reduce the amount of the elements required by Ueda. The admitted prior art does not remedy the defects of claim 1, 6, and 11. Withdrawal of this rejection is requested.

Claims 18-20 stand rejected under 35 USC 103(a) as unpatentable over Ueda in view of admitted prior art and Baba et al. (JP 58-040495).

Ueda does not teach or suggest independent claims 1, 6, and 11 for the reasons discussed above. One skilled in the art would not have modified Ueda in view of the admitted prior art to reduce the amount of the elements required by Ueda. The admitted prior art does not remedy the defects of claim 1, 6, and 11.

Baba is relied on for the disclosure of bismuth. However, even if one skilled in the art added bismuth to the composition of Ueda, Ueda would still require elements exceeding the maximum amount recited in the instant claims. Hence Ueda in view of Baba does not teach or suggest the instant claims. Withdrawal of this rejection is requested.

CONCLUSION

If any further fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

All rejections having been addressed, applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same.

Respectfully submitted,

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